



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

MEMORANDUM

TO: Barry E. Hill, Director, Office of Environmental Justice ("OEJ")
Office of Enforcement and Compliance Assurance ("OECA")

FROM: Theodore J. Kim, Legal Counsel, OEJ/OECA /s/ *Ted Kim*

DATE: March 29, 2007

RE: "Environmental Justice in the News" for the Week Ending March 30,
2007

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This memorandum summarizes select environmental justice news actions for the period beginning March 16, 2007 through the week ending March 30, 2007. The summary is limited to Lexis/Nexis searches conducted using the query: "(environment! w/2 (justice or racism or equity or disproportionate or disparate)) or (environment! w/25 minorit! or low***income) or (executive order 12898) or (civil right! w/25 environmental) or ("fair housing act" w/25 (environment! or zon!))." Please note that articles on international or foreign-based environmental justice issues were not included.

1. **News Items.**

The following news was particularly noteworthy:

- **"Department of Environmental Conservation Announces Availability of Environmental Justice Grants," US States News (Mar. 21, 2007).**
The article set forth a press release from the New York State Department of Environmental Conservation ("DEC"), who announced "the availability of 2007 State assistance funding under the Environmental Justice Community Impact Research Grant program. . . . The Environmental Justice grants are being made available to local groups that address environmental and/or related public health problems in their communities." The grant projects should address "the exposure of communities to multiple environmental harms and risks and include research and education components. Grants will range from the minimum amount of \$2,500 to the maximum amount of \$25,000."
- **"'Cap and Trade' Gaining Favor; Congress Taking Up Business-Friendly Proposals to Reduce Global Warming," San Francisco**

Chronicle (Mar. 21, 2007) at C1. According to the article, emissions trading, or cap-and-trade, of greenhouse gases in California is spurring debate again. While big businesses support emissions trading, environmentalists believe that emissions trading will hurt minorities and the poor. Specifically, one activist noted that “older industries that are frequently located in poor communities tend to have high emissions of both greenhouse gases and conventional pollutants. As a result, . . . a trading system would allow large industries to reduce their emissions in newer facilities located in more affluent areas while maintaining the high emissions in their older facilities.” However, officials in California acknowledge that environmental justice issues exist, but they also feel that an emissions trading system can be successfully created.

- **“New Hill Hookups Come with a Hitch; Neighboring Towns Will Pay for Sewer and Water If Residents Agree to Sewage Treatment Plant,” News & Observer (N.C. Mar. 21, 2007) at B3.** According to the article, three towns in Raleigh, North Carolina, Apex, Cary, and Morrisville, have offered to give New Hill \$3 million in water and sewer and hookups. In exchange, the towns seek New Hill “to accept a sewage treatment plant in their neighborhood.” The towns hope the deal “will erase concerns about environmental racism,” since more than 80 percent of New Hill’s residents are black.
- **“Racism Alleged in Polluted Well Case,” UPI (Mar. 20, 2007).** According to the article, Sheila Holt-Orsted, “whose family has been ravaged by cancer alleges racism played a role in how authorities dealt with their polluted wells.” Ms. Holt-Orsted, whose family is black, alleged in a two separate lawsuits that Tennessee officials knew of the trichloroethylene contamination in their well emanating from the nearby Dickson landfill “as far back as 1988 but took care of white families before hooking them up to city water in 2000.” In addition, Ms. Holt-Orsted claimed that a “contaminated conspiracy” occurred, since Ms. Holt-Orsted’s family members either died or suffered from cancer. Defense attorneys, however, deny any culpability or racism for the health problems.
- **“Developer Sued Over Hunters Point Toxics; Executives Say Their Firm Retaliated Against Them for Questioning Construction Dust,” San Francisco Chronicle (Mar. 18, 2007) at B1.** According to the article, Lennar Corporation (“Lennar”) “allowed clouds of toxic construction dust to escape from [a new home construction site], exposing neighbors and schoolchildren to potentially harmful, airborne asbestos.” Lennar’s actions came to light in a lawsuit that was filed against Lennar on March 16, 2007 by former company executives who claimed that Lennar retaliated against them for “raising questions about the dust problems at the construction site.” In addition, the executives accused “Lennar of ‘environmental racism,’ saying the firm thought it would

escape responsibility for pollution problems because the neighbors included poor people and members of racial minorities.”

- **“Climate Change Concerns Everyone, Activist Says,” Birmingham News (AL Mar. 16, 2007) at 2C.** According to the article, Jerome Ringo, the Chairman of the National Wildlife Federation, spoke with students at Birmingham-Southern College on March 15, 2007. Mr. Ringo’s theme was the effects of global warming, and he noted that people “who are black or young or living in Alabama are kidding themselves if they believe global warming is not already affecting their lives.” In global warming, Mr. Ringo believes that environmentalists finally “have an issue that should reach poor and minority people.”
- **“Port Is Launching ‘Green’ Campaign; Executive Director Says He Wants to Develop Clean Air Quality Plan and Work with the Local Community,” Contra Costa Times (CA Mar. 16, 2007) at F4.** According to the article, the Port of Oakland (“Port”) “has launched a new ‘green’ outreach campaign to show the public its commitment to environmental initiatives.” While many trucks carry goods to the Port, they are independent contractors who are outside of the Port’s environmental enforcement authority. Accordingly, the Port seeks to develop a clean air quality plan. Some have criticized the Port’s initiative, asserting that the measures are not enough. Specifically, they cite health concerns due to the Port’s air emissions.
- **“Bypass Plans Come into Focus: Report: 95 Homes, 10 Businesses Could be Moved or Demolished,” Times-News (N.C. Mar. 16, 2007).** According to the article, an early draft environmental impact statement (“DEIS”) from North Carolina’s Department of Transportation “fleshes out details of the long-delayed road from Interstate 85/40 exit 153 to Mill Creek and White Level,” in which approximately “\$130 million could be spent and 95 homes, 10 businesses, and one church could be moved or knocked down.” Among other things, the article noted that the DEIS articulated that environmental justice populations, like the minority neighborhood in West End, North Carolina, “will experience the impacts documented throughout the DEIS [due to the construction of the proposed road] to the extent that they occur in areas where these populations are located.”
- **“‘Environmental Justice: Unifying Research and Activism’ Is Focus of This Year’s J. Paul Taylor Social Justice Symposium,” US States News (Mar. 16, 2007).** According to the article, New Mexico State University will hold a symposium entitled “Environmental Justice: Unifying Research and Activism,” from March 29 to March 31, 2007. The symposium seeks to stimulate debate on environmental justice to create healthier and more equitable communities. Several guest speakers

will attend, and a visit will take place to Sunland Park, New Mexico to discuss environmental justice issues.

- **“Air Board Grants Permit, Is Booed; Concrete Plant Says It Will be Good Neighbor,” Albuquerque Journal (N.M. Mar. 15, 2007) at 1.** According to the article, the Albuquerque-Bernalillo County Air Quality Control Board (“Board”) was criticized for granting an air quality permit to Vulcan Material Company (“Vulcan”) on March 14, 2007. Residents in the Mountain View were against the permit because, among other things, it failed to “give enough weight to environmental justice concerns.” According to the article, Mountain View “has some of the worst air quality in Bernalillo County.” The residents also believed that the permit was unenforceable.
- **“Toxicologists Tackle ‘Pigs and Public’s Health’ at Special Regional Symposium During Annual Meeting in Charlotte, N.C.,” PR Newswire (Mar. 15, 2007).** According to the article, a panel of toxicologists will address the potential public problems that hog farms pose in North Carolina on March 27, 2007 in Charlotte, North Carolina. One key issue that the panel will consider at the symposium is environmental equity, since many “concentrated animal feeding operations are located in the poorest areas of North Carolina, and this population already has increased susceptibility to a wide range of health problems associated with poverty.”
- **“New Landfill Put on Back Burner,” St. Petersburg Times (Mar. 14, 2007) at 1.** According to the article, plans to construct a new landfill in Osceola County, Florida may be reconsidered due to the fact that it may cost “nearly \$20 a ton less to haul . . . trash to other counties than to dispose of it locally.” The Angelo’s Aggregate Materials (“Angelo”) had proposed to build the first privately held dump in the area; however, some have characterized the proposal as “moot.” Residents in the area were against Angelo’s proposal and cited environmental racism as a significant variable associated with the proposal. One fourth of the population in the area is African-American.
- **“Columbia Officials Support Group’s Plan,” Hattiesburg American (MI Mar. 13, 2007) at 2A.** According to the article, the “Columbia Board of Aldermen voted to support an environmental justice group’s plan to relocate about 120 families who live near a remediated superfund site.” The site, known as the old Reichhold Chemical Company, was used for industrial and commercial activities. A local environmental justice group, studied the site, which it characterized as a toxic waste site, and now seeks grants to relocate 120 families. The plan currently awaits final approval.
- **“Kings Co. Toxic Site Comment Sought; Feds Host Meetings This Month on PCB Plan for Kettleman Hills Facility,” Fresno Bee (CA**

Mar. 12, 2007) at B1. According to the article, the United States Environmental Protection Agency (“EPA”) plans to host meetings in March “to get public input on whether the Kettleman Hills facility should be allowed to continue to store polychlorinated biphenyl (“PCB”), also known as PCB waste.” Kettleman Hills currently is undergoing a permit application process for the site, which is “the only California facility permitted to accept PCBs,” and “the West’s largest hazardous waste landfill.” Under the permit, EPA specified that the operator of Kettleman Hills, Chemical Waste Management Inc., closely monitor the air for PCBs. In addition, EPA released an Environmental Justice Assessment that found no evidence that the landfill adversely impacted Kettleman City. However, one local activist, who hopes that EPA will deny the permit, disputed EPA’s assessment and asserted that “EPA needs to conduct an in-depth health survey in the area.”

- **“Activists Protest Natural Gas Tanks,” Palm Beach Post (FL Mar. 12, 2007) at 1B.** According to the article, environmental activists in Palm Beach and Martin, Florida are objecting to a proposed Natural Gas Storage facility, which Floridian wants to build at the site of a former Superfund site. Floridian proposed to build 2 natural gas storage tanks that would store liquefied natural gas for power companies in Florida. While residents have not weighed in on the project, the environmental activists “accused the project’s proponents of ‘environmental racism’ by placing the plant on land next to Booker Park, a neighborhood of mostly poor and minority residents who the activists said would be less likely to take the time to fight the plan.”
- **“Officials, Residents Take Look at Station; Greensboro Tour ‘Demystifies’ Waste Transfer Areas,” Chapel Hill Herald (Mar. 11, 2007) at 1.** According to the article, elected officials and residents near Orange County’s landfill toured Greensboro’s transfer station on March 10, 2007. The tour took place, because the landfill will be at full capacity in a few years, and debate has begun as to where to build a new transfer station. Residents in the area noted that the transfer station, which “takes waste from garbage trucks and puts it into tractor-trailers to haul to landfills elsewhere,” raised unspecified issues of environmental justice.
- **“Landfill Protestors Make Their Views Known,” Marion Star (OH Mar. 10, 2007) at 3.** According to the article, a protest was held on March 10, 2007 against the Construction and Demolition Debris landfill that the Ohio Environmental Protection Agency approved for construction in Washington Township. One environmental justice organization, expressed particular concern with the “danger of polluting the water supply at their own homes and especially that of the Northmor schools.” Specifically, the protestors believe that the landfill will generate leachate, which will pollute the groundwater with toxins and threaten public health.

- **“U.S. EPA Awards \$200,000 to City College of San Francisco to Promote Biodiesel,” Environmental Protection Agency Documents and Publications (Mar. 9, 2007).** According to the article, EPA announced “a \$200,000 grant award to City College of San Francisco to fund improved access to biodiesel for public and private diesel powered fleets. The grant funds will be used to bring together a consortium of biodiesel advocates to help develop distribution and fueling infrastructure and provide classroom training to fuel distributors, mechanics, and users. Ultimately, the project will transform biodiesel from a ‘boutique’ fuel into a mainstream fuel option, making it readily available throughout the Bay Area, and eventually, throughout the West Coast.” The article further noted that replacing traditional diesel with biodiesel fuel is “especially important in low-income environmental justice communities . . . [that are] heavily burdened by truck traffic from nearby industrial operations.”
- **“Group Pushes for Air Pollution Measures,” Asbury Park Press (N.J. Mar. 8, 2007).** According to the article, the New Jersey Environmental Justice Alliance called on New Jersey Governor Jon S. Corzine and the New Jersey Department of Environmental Protection (“DEP”) to “do more to reduce diesel and fine particle air pollution, especially for the health of those living near high concentrations of the asthma-causing particles.” Others also echoed this sentiment and noted that minorities and people of lower incomes are disproportionately impacted, because the “exposures are concentrated in urban areas.”

2. **Recent Litigation.**

- No noteworthy “*Recent Litigation*” was identified for this time period.

3. **Regulatory/Legislative/Policy.**

The following items were most noteworthy:

A. **Federal Congressional Bills and Matters.**

- No noteworthy “*Federal Congressional Bills and Matters*” were identified for this time period.
- No noteworthy “*Miscellaneous House and Senate Congressional Record Mentions of Environmental Justice*” were identified for this time period.
- **Federal Register Notices.**
 - **DOT, Intent to Prepare an Environmental Impact Statement for High-Capacity Transit Improvements in the Leeward Corridor of Honolulu, HI, 72 *Fed. Reg.* 12,254 (Mar. 15, 2007).** The United States Department of Transportation’s (“DOT”)

Federal Transit Administration (“FTA”) announced its intent to prepare an Environmental Impact Statement (“EIS”) “on a proposal by the City and County of Honolulu to implement a fixed-guideway transit system in the corridor between Kapolei and the University of Hawaii at Manoa with a branch to Waikiki. Alternatives proposed to be considered in the draft EIS include No Build and two Fixed Guideway Transit alternatives.” Comments are due by April 12, 2007. Among other things, the EIS will evaluate environmental justice impacts.

- **DOT, Environmental Impact Statement for the California High Speed Train System from Palmdale to Los Angeles, CA, 72 Fed. Reg. 12,252 (Mar. 15, 2007).** DOT’s Federal Railroad Administration (“FRA”) announced its intent to jointly prepare with the California High Speed Rail Authority a project-level EIS and project-level Environmental Impact Report (“EIR”) for “the section of the Authority’s proposed California High-Speed Train System from the City of Palmdale to the City of Los Angeles in compliance with relevant State and federal laws.” Comments on the EIR/EIS, which will look at, among other things, environmental justice impacts, are due by April 24, 2007.
- **DOT, Environmental Impact Statement for the California High Speed Train System from Los Angeles to Orange County, CA, 72 Fed. Reg. 12,250 (Mar. 15, 2007).** FRA announced its intent to jointly prepare with the California High Speed Rail Authority an EIR/EIS for “the section of the Authority’s proposed California High-Speed Train System from the City of Los Angeles . . . to Orange County . . . in compliance with relevant State and federal laws.” Comments on the EIR/EIS, which will look at, among other things, environmental justice impacts, are due by April 24, 2007.
- **EPA, Environmental Impact Statements and Regulations; Availability of EPA Comments, 72 Fed. Reg. 10,748 (Mar. 9, 2007).** EPA announced the availability of its comments pursuant to the Environmental Review Process (“ERP”), as required by Section 309 of the CAA and Section 102(2)(c) of the National Environmental Policy Act (“NEPA”). With regard to the draft Environmental Impact Statements, EPA raised environmental concerns with the “Interstate 5 (Santa Ana Freeway) Project” due to “the potential for project segmentation, a lack of analysis for mobile source air toxics (“MSATs”) hotspots, and the inconsistent reporting of environmental justice impacts.”

B. State Congressional Bills and Matters.

- **California, Senate Bill 8, introduced on December 4, 2006 by Senator Sheila Kuehl (D-District 23). Status: Rereferred to Senate Committee**

on Appropriations on March 27, 2007. The Bill seeks to amend Sections 79402 and 79441 of the Water Code. Senate Bill 8 would add environmental justice as a prescribed element of the CALFED Bay-Delta Program. Specifically, the Bill “would require the implementing agencies, both individually and collectively, to be the implementing agencies for the environmental justice program element.”

- **California, Senate Bill 210, introduced on February 8, 2007 by Senator Christine Kehoe (D-District 39).** *Status: Rereferred to Senate Transportation and Housing Committee on March 20, 2007.* The Bill requires the California Air Resources Board (“CARB”) to develop, implement, and enforce a low-carbon fuel standard to reduce the carbon content of transportation fuels in California. In addition, the Bill specifies that “implementation of the low-carbon fuel standard does not result in greater impacts on low-income communities and is consistent with environmental justice.”
- **California, Senate Bill 240, introduced on February 14, 2007 by Senator Dean Florez (D-District 16).** *Status: Referred to Senate Transportation and Housing Committee and Senate Environmental Committee on March 22, 2007.* The Bill seeks to address the finding that residents of the San Joaquin Valley “suffer some of the worst air quality in the world[, which] poses a significant threat to public health, the environment, and the economy of the valley.” Of particular note is the fact that the Bill provides at least \$10 million to “mitigate the impacts of air pollution on public health and the environment in disproportionately impacted environmental justice communities in the San Joaquin Valley. The district board shall convene an environmental justice advisory committee, selected from a list given to the board by environmental justice groups from the San Joaquin Valley, to recommend the neighborhoods in the district that constitute environmental justice communities, and how to expend funds within these communities.”
- **Connecticut, Senate Bill 986, introduced on January 23, 2007 by Senator Donald J. DeFronzo (D-District 6).** *Status: Referred to Joint Committee on the Environment on March 16, 2007.* The Bill concerns environmentally stressed and environmental justice communities. Specifically, the Bill seeks to provide relief for such communities. In addition to defining environmental justice and environmental justice community, the Bill calls for the adoption of regulations that describe the procedures “concerning the consideration of environmental and health effects of all affecting facilities located within one mile of a proposed new or expanded affecting facility in an environmental justice community or an environmentally stressed community, when granting licenses, permits, or authorizations or in other decision-making processes that relate to the

proposed new or expanded affecting facility. The procedures shall include enhanced public notification and outreach.

- **Massachusetts, House Bill 2234, introduced on January 10, 2007 by Congressman Byron Rushing (D-District 9). Status: *Introduced*.** The Bill seeks to eliminate racial and ethnic health disparities in the Commonwealth of Massachusetts. Among other things, Section 11 of the Bill addresses environmental justice and establishes a community environmental health disparities program. The program will “establish a communities health index and require certain proposed projects to complete a health impact assessment to help protect the health of community residents.”
- **Massachusetts, Senate Bill 534, introduced on Senator Marc R. Pacheco (D-First Plymouth and Bristol). Status: *Referred to Joint Committee on Environment, Natural Resources, and Agriculture on January 10, 2007*.** The Bill pertains to global warming and seeks to reduce emissions of greenhouse gases. In seeking to reduce emissions, the Bill specifies that the Massachusetts Department of Environmental Protection shall convene “an environmental justice advisory committee, of at least three members, to advise it in developing [a] scoping plan.”
- **Minnesota, House Bill 1621, introduced on March 1, 2007 by Congresswoman Julie Bunn (D-District 56A). Status: *Referred to House Agriculture, Rural Economics, and Veterans Affairs Finance Division on March 22, 2007*.** The Bill established an environmental health tracking and biomonitoring program. In setting forth how the program would work, the Bill specified that an Environmental Health Tracking and Biomonitoring Advisory Panel would be formed. Included on the Panel, would be four members from nongovernmental organizations with a focus on, among other things, environmental justice.
- **Minnesota, Senate Bill 1074, introduced on February 21, 2007 by Senator Katie Sieban (D-District 57). Status: *Rereferred to Senate Finance Committee on March 19, 2007*.** The Bill establishes an environmental health tracking and biomonitoring program and requires the Commissioner of Health to coordinate data collection activities with the Minnesota Pollution Control Agency (“PCA”), Department of Agriculture, University of Minnesota, and other relevant state agencies to promote sharing and access to health and environmental databases to develop an environmental health tracking system. In addition, the Bill specifies the Commissioner’s duties and sets forth that the Commissioner shall create a working group and appoint, among others, a member with a focus on environmental justice issues.

- **North Carolina, Senate Bill 1345, introduced on March 21, 2007 by Senator Larry Shaw (D-Cumberland). Status: Referred to Senate Committee on Appropriations/Base Budget on March 26, 2007.** The Bill seeks to establish the Office of Environmental Justice within the Department of Administration. A Director of Environmental Justice shall manage the office. North Carolina's Governor will appoint the Director. The Office will: "(1) ensure that governmental actions substantially affecting human health or the environment operate without discrimination; (2) provide information for citizens and neighborhood groups to allow meaningful participation in regulatory processes; (3) respond in a meaningful manner to allegations of environmental injustice; (4) provide a link for communication and information between the community, industries, and the government; and (5) increase awareness of environmental conditions in minority and low-income communities."
- **North Carolina, Senate Bill 1385, introduced on March 21, 2007 by Senator Larry Shaw (D-Cumberland). Status: Referred to Senate Committee on Agriculture, Environment, and Natural Resources on March 26, 2007.** The Bill pertains to solid waste landfill siting. Specifically, it seeks "to promote environmental justice by requiring applicants, as part of the permitting process for new solid waste landfills and expansions of existing solid waste landfills, to prepare an environmental impact statement and to conduct a separate review of community impacts that relies in part on a demographic study by the applicant for the area located within five miles of any boundary of the site of the proposed landfill."
- **Wisconsin, Assembly Bill 157, introduced on March 12, 2007 by Senator Spencer Miller (D-District 77). Status: Referred to Assembly Committee on Natural Resources on March 12, 2007.** The Bill provides for the management of emissions of specified greenhouse gases, including carbon dioxide. Greenhouse gases trap heat in the atmosphere. The Bill treats greenhouse gas emissions from the generation of electricity that is generated outside the State but is used in the State as though the emissions occurred in the State. The Bill creates two bodies to advise Wisconsin's Department of Natural Resources about greenhouse gas management, including the Greenhouse Gas Management Environmental Justice Council ("Council"). The Council will have at least 3 members appointed from nominations "received from environmental justice organizations and community groups, representing communities that have the most significant exposure to air pollutants, including communities with minority populations and communities with low-income populations."
- **State Regulatory Alerts.**

— No noteworthy “*State Regulatory Alerts*” were identified for this time period.